

obligated to provide is not a basis on which the carrier may require an attendant.

(b) A carrier may require that a qualified individual with a disability meeting any of the following criteria travel with an attendant as a condition of being provided air transportation, if the carrier determines that an attendant is essential for safety:

(1) A person traveling in a stretcher or incubator. The attendant for such a person must be capable of attending to the passenger's in-flight medical needs;

(2) A person who, because of a mental disability, is unable to comprehend or respond appropriately to safety instructions from carrier personnel, including the safety briefing required by 14 CFR 121.571 (a) (3) and (a)(4) or 14 CFR 135.117(b);

(3) A person with a mobility impairment so severe that the person is unable to assist in his or her own evacuation of the aircraft;

(4) A person who has both severe hearing and severe vision impairments, if the person cannot establish some means of communication with carrier personnel, adequate to permit transmission of the safety briefing required by 14 CFR 121.571(a)(3) and (a)(4) or 14 CFR 135.117(b).

(c) If the carrier determines that a person meeting the criteria of paragraph (b)(2), (b)(3) or (b)(4) of this section must travel with an attendant, contrary to the individual's self-assessment that he or she is capable of traveling independently, the carrier shall not charge for the transportation of the attendant.

(d) If, because there is not a seat available on a flight for an attendant whom the carrier has determined to be necessary, a handicapped person with a confirmed reservation is unable to travel on the flight, the handicapped person shall be eligible for denied boarding compensation under 14 CFR part 250.

(e) For purposes of determining whether a seat is available for an attendant, the attendant shall be deemed to have checked in at the same time as the handicapped person.

§ 382.37 Seat assignments.

(a) Carriers shall not exclude any qualified individual with a disability from any seat in an exit row or other location or require that a qualified individual with a disability sit in any particular seat, on the basis of disability, except in order to comply with the requirements of an FAA safety regulation or as provided in this section.

(b) If a person's disability results in involuntary active behavior that would result in the person properly being refused transportation under §382.31, and the safety problem could be mitigated to a degree that would permit the person to be transported consistent with safety if the person is seated in a particular location, the carrier shall offer the person that particular seat location as an alternative to being refused transportation.

(c) If a service animal cannot be accommodated at the seat location of the qualified individual with a disability whom the animal is accompanying (see §382.55(a)(2)), the carrier shall offer the passenger the opportunity to move with the animal to a seat location, if present on the aircraft, where the animal can be accommodated, as an alternative to requiring that the animal travel with checked baggage.

§ 382.39 Provision of services and equipment.

Carriers shall ensure that qualified individuals with a disability are provided the following services and equipment:

(a) Carriers shall provide assistance requested by or on behalf of qualified individuals with a disability, or offered by air carrier personnel and accepted by qualified individuals with a disability, in enplaning and deplaning. The delivering carrier shall be responsible for assistance in making flight connections and transportation between gates.

(1) This assistance shall include, as needed, the services personnel and the use of ground wheelchairs, boarding wheelchairs, on-board wheelchairs where provided in accordance with this part, and ramps or mechanical lifts.

(2) Boarding shall be by level entry boarding platforms or accessible passenger lounges, where these means are

available. Where these means are not available, carriers shall use ramps, mechanical lifts, or other suitable devices (not normally used for freight) for enplaning and deplaning qualified individuals with a disability who need them. Such devices shall be maintained in proper working order. In no case shall carrier personnel be required to hand-carry a passenger in order to provide boarding assistance (i.e., directly to pick up the passenger's body in the arms of one or more carrier personnel to effect a level change the passenger needs to enter or leave the aircraft). Requirements for providing boarding assistance to aircraft with 30 or fewer seats are found in § 382.40.

(3) Carriers shall not leave a handicapped passenger unattended in a ground wheelchair, boarding wheelchair, or other device, in which the passenger is not independently mobile, for more than 30 minutes.

(b) Carriers shall provide services within the aircraft cabin as requested by or on behalf of individuals with a disability, or when offered by air carrier personnel and accepted by individuals with a disability as follows:

(1) Assistance in moving to and from seats, as part of the enplaning and deplaning processes;

(2) Assistance in preparation for eating, such as opening packages and identifying food;

(3) If there is an on-board wheelchair on the aircraft, assistance with the use of the on-board wheelchair to enable the person to move to and from a lavatory;

(4) Assistance to a semiambulatory person in moving to and from the lavatory, not involving lifting or carrying the person; or

(5) Assistance in loading and retrieving carry-on items, including mobility aids and other assistive devices stowed on board in accordance with § 382.41.

(c) Carriers are not required to provide extensive special assistance to qualified individuals with a disability. For purposes of this section, extensive special assistance includes the following activities:

(1) Assistance in actual eating;

(2) Assistance within the restroom or assistance at the passenger's seat with elimination functions;

(3) Provision of medical services.

[55 FR 8046, Mar. 6, 1990, as amended by Amdt. 6, 61 FR 56422, 56423, Nov. 1, 1996; 62 FR 17, Jan. 2, 1997]

§ 382.40 Boarding assistance for small aircraft.

(a) Paragraphs (b) and (c) of this section apply to air carriers conducting passenger operations with aircraft having 19–30 seat capacity at airports with 10,000 or more annual enplanements.

(b) Carriers shall, in cooperation with the airports they serve, provide boarding assistance to individuals with disabilities using mechanical lifts, ramps, or other suitable devices that do not require employees to lift or carry passengers up stairs.

(c) (1) Each carrier shall negotiate in good faith with the airport operator at each airport concerning the acquisition and use of boarding assistance devices. The carrier(s) and the airport operator shall, by no later than September 2, 1997, sign a written agreement allocating responsibility for meeting the boarding assistance requirements of this section between or among the parties. The agreement shall be made available, on request, to representatives of the Department of Transportation.

(2) The agreement shall provide that all actions necessary to ensure accessible boarding for passengers with disabilities are completed as soon as practicable, but no later than December 2, 1998 at large and medium commercial service hub airports (those with 1,200,000 or more annual enplanements); December 2, 1999 for small commercial service hub airports (those with between 250,000 and 1,199,999 annual enplanements); or December 4, 2000 for non-hub commercial service primary airports (those with between 10,000 and 249,999 annual enplanements). All air carriers and airport operators involved are jointly responsible for the timely and complete implementation of the agreement.

(3) Under the agreement, carriers may require that passengers wishing to receive boarding assistance requiring the use of a lift for a flight using a 19–30 seat aircraft check in for the flight